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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,264	11/30/2001	Gordon Lowe	2001-1187A	2270

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EXAMINER

COVINGTON, RAYMOND K

ART UNIT PAPER NUMBER

1625

DATE MAILED: 04/20/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/914,264

Applicant(s)

LOWE, GORDON

Examiner

Raymond Covington

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over McFadyen et al Biochem. J. (1986) v. 238, pp 757-763 in view of McCoubrey et al FEBS Letters 380 (1996) pp 73-78, McFadyen et al Biochem. J. (1987) v. 242, pp. 177-183, Peyratout et al Inorg. Chem. 1995, v. 34, pp 4484-4489 and Mureinik et al Inorg. Nucl. Chem. Letters v. 13 pp 625-629 (1977).

Determination of the scope and content of the prior art (MPEP 2141.01)

McFadyen et al Biochem. J. (1986) v. 238, pp 757-763 teach platinum (II) terpyridine complexes of the same type recited in the claims. See page 757. McCoubrey et al FEBS Letters 380 (1996) pp 73-78 teach analogous complexes. See page 73 right column section 2 formula I. As does McFadyen et al Biochem.

J. (1987) v. 242, pp. 177-183, see page 177 figure 1, and Mureinik et al Inorg. Nucl. Chem. Letters v. 13 pp 625-629 (1977), last paragraph.

Ascertainment of the difference between the prior art and the claims (MPEP

2141.02)

The references differ in that exemplification for the entire scope of compounds inclusive in the recited claims is not given.

Finding of prima facie obviousness--rational and motivation (MPEP 2142-

2413)

However, the claimed invention would have been obvious to one of ordinary skill in the art in view of the prior art as a whole as the use of somewhat different but otherwise analogous substituents in lieu of those taught in the cited references would not have been unexpected. This is particularly true in further view of Peyratout et al Inorg. Chem. 1995, v. 34, pp 4484-4489 which teach bifunctional complexes of the type claimed to be known in the art.

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Covington whose telephone number is (703) 308-4704. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raymond Covington
Examiner
Art Unit 1625



RKC

**RITA DESAI
PRIMARY EXAMINER**